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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,645	05/25/2001	Dennis J. Tippmann JR.	15847/82399	4539

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BARNES & THORNBURG
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Fort Wayne, IN 46802

EXAMINER

BLACKNER, HENRY A

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,645

Applicant(s)

TIPPMANN, DENNIS J.

Examiner

Henry A. Blackner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,640,945 to Slonaker.

Slonaker clearly discloses a paint ball gun (10) comprising: a paint ball firing mechanism (16, 20, 40), and a barrel (12) having a breech end, a muzzle end, and a bore extending there between, wherein the breech end is in communication with the paint ball firing mechanism and is configured to receive the paint ball (25') into the passage, and wherein the bore has an inner wall that forms an arcuate path along which the paint ball travels, and which the paint ball contacts a portion thereof when propelled there through to impart a spin on the paint ball, in figures 1, 4, and 5, column 4 lines 54-58, column 5 lines 65-67, and column 6 lines 1-4 and lines 14-62. (rifling)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 9 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by U.S. Patent No. 5,878,736 to Lotuaco.

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Lotuaco discloses a paint ball gun configured to fire a paint ball (B), the paint ball gun comprising: a body having a directional axis of firing, a paint ball firing mechanism attached to the body oriented askew "out of line" from the directional axis, and a bore having a breech end that is in communication with the firing mechanism, in figures 1-4, column 2 lines 30-36, column 3 lines 41-67, and column 4 lines 1-27.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotuaco in view of Rentzsch.

In regards to claim 10, Lotuaco discloses in figures 1-4, column 2 lines 30-36, column 3 lines 41-67, and column 4 lines 1-27, a paint ball gun configured to fire a paint ball (B), the paint ball gun comprising: a body having a directional axis of firing, a longitudinally extending paint ball firing mechanism attached to the body and oriented to the directional axis of firing, and a bore having a breech end that is in communication with the firing mechanism. Lotuaco does not disclose that the longitudinally extending paint ball firing mechanism is oriented at an angle non-parallel to the directional axis of firing.

Rentzsch teaches in figures 1 and 2 and column 2 lines 30-35, lines 38-40, and lines 50-56, a technique of launching projectiles, via two separate barrels (7, 8) that are directed at two different angles of elevation (10, 11) with respect to the firing mechanism (9) and the directional

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axis of firing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ Rentzsch's technique of launching a projectile at an angle non-parallel to the directional axis of firing, in order to achieve the desired effect of attaining the capability of directing projectiles beyond an obstacle.

In regards to claim 11, Lotuaco in view of Rentzsch disclose wherein the paint ball exits the paint ball firing mechanism in a direction that is non-parallel to the directional axis of firing, in the rejection of corresponding parts of claim 10, above.

In regards to claim 12, Lotuaco in view of Rentzsch disclose wherein the bore comprises a muzzle end such that the bore extends between the muzzle end and the breech end, the muzzle end being located at a position that is above the directional axis of firing, in the rejection of corresponding parts of claim 10, above.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lotuaco in view of Rentzsch as applied to claim 12 above, and further in view of Article (I).

Lotuaco in view of Rentzsch disclose the claimed invention, see rejection of corresponding parts of claim 12 above, but do not disclose that the direction of the paint ball as it exits the bore is in a generally parallel direction with respect to the directional axis of firing. Article (I) teaches that a flexible curved barrel with a 90° barrel curvature was developed for the Kalashnikov RPK light machine gun, which enabled the user the ability of firing around corners. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the Kalashnikov curved barrel, in order to achieve the desired effect of attaining the capability of controlling the flight direction of a projectile.

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Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lotuaco in view of Article (I).

In regards to claim 14, Lotuaco discloses the claimed invention, see rejection of claim 9 above, but does not disclose that the bore is curved. Article (I) teaches that a flexible curved barrel with a 90° barrel curvature was developed for the Kalashnikov RPK light machine gun, which enabled the user the ability of firing around corners. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the Kalashnikov curved barrel, in order to achieve the desired effect of imparting a spin to a circular projectile.

In regards to claim 15, wherein the bore is curved to impart a spin to the paint ball traveling there through, see the rejection of corresponding parts of claim 14, above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents show the state of the art in the field of Paintball Guns.

U.S. Patent No. 6,520,172 B2 to Perrone

U.S. Patent No. 6,364,737 B1 to Sterr et al.

U.S. Patent No. 6,276,354 B1 to Dillon

U.S. Patent No. 5,613,483 to Lukas et al.

U.S. Patent No. 3,726,266 to Palmer

Non Patent Literature (Article II)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry A. Blackner whose telephone number is 703-305-4799. The examiner can normally be reached on 09:15 - 17:45.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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6 February 2004

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER